
TITLE 460 DIVISION OF DISABILITY AND REHABILITATIVE SERVICES

Economic Impact Statement

LSA Document #12-463

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

IC 4-22-2.1-5(a) provides that an agency intending to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses must prepare a statement that describes the annual economic impact of the rule on small businesses after the rule is fully implemented. That statement must be submitted to the Indiana Economic Development Corporation (IEDC). The IEDC is required to review the rule and submit written comments to the agency no later than seven days before the public hearing.

Summary of the Rule Amendment

LSA Document #12-463 adds 460 IAC 13 to include the regulations and guidelines for Objective Based Allocations (OBA) under the Home and Community Based Services (HCBS) waiver program administered by the Division of Disability and Rehabilitative Services (DDRS). DDRS has been using this funding model for over a year, and there is currently no other properly promulgated rule regarding funding.

Impact on Small Business

The following section provides responses to the following questions outlined in IC 4-22-2.1-5:

1. An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

IC 5-28-2-6 defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

The proposed rule simply adds regulations representative of current policy and practices in the guiding individuals and providers of supported living services to make them consistent with the most recently approved HCBS Medicaid waiver. DDRS estimates that at least 360 approved providers meet the above definition of a small business. Because the proposed rule will likely impose requirements on small business, DDRS is required to prepare a report describing the economic impact of the rule in accordance with IC 4-22-2.1-5.

2. An estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.

DDRS estimates that the proposed rule change will not impose administrative costs on small businesses above what is already required. The proposed rule change will simply update state guidelines in order to align them with the most recently approved HCBS waiver regulations and DDRS's commitments to the Centers for Medicare and Medicaid Services (CMS). In fact, the proposed rule change will provide clear guidelines and expectations, thus resulting in more efficient record keeping and reporting requirements. Accordingly, the proposed rule change is not expected to result in an increase in reporting, record keeping, or other administrative costs.

3. An estimate of the total annual economic impact that compliance will have on small businesses subject to the rule.

Notwithstanding the fact that providers are already complying with the current funding model, the proposed rule addition will have some economic impact on small businesses, though such effect is impossible to quantify. However, DDRS estimates that any negative economic impact of the proposed rule change will be de minimis. As stated above, small businesses are already familiar with requirements and procedures under the current HCBS waiver and DDRS policies. The proposed rule is not expected to impose any additional administrative expenses on small business providers. The ultimate effect of the proposed rule change is that small businesses will have consistent, regulatory guidance and expectations set forth in administrative code. As such, the impact of the proposed rule change is expected to be positive.

4. A statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary.

The proposed rule is necessary to align state regulations with regulations in the most recently approved HCBS waiver and the associated policies as well as assurances DDRS made to CMS.

5. Any regulatory flexibility analysis that considers any less intrusive or less costly alternative

methods of achieving the same purpose.

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

DDRS has determined that there are no other less stringent compliance or reporting requirements. Standards must be in place to comply with federal rules and the most recently approved HCBS waiver.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

This rule has no impact on schedules or deadlines for compliance or reporting requirements for small businesses.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

This rule has no impact on compliance or reporting requirements for small businesses.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

There are person-centered funding standards for individuals small business providers serve, as well as regulatory standards set forth in the most recently approved HCBS waiver.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

DDRS has determined that it cannot exempt small businesses from regulations in regards to the HCBS Medicaid waiver program due to federal regulations and oversight requirements.

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